



USMCA

UNITED STATES – MEXICO – CANADA CENTER

USMCA Implementation Webinars

Overview of USMCA

June 2020

Disclaimer: This presentation is final as of June 12, 2020. More recent guidance will not be reflected, but further iterations of this overview presentation may be provided.
CBP Publication Number 1121-0620



USMCA Points of Contact



Maya Kamar

Director, Textiles and Trade Agreements Directorate (TTAD), CBP Office of Trade (OT)



Margaret Gray

Branch Chief, Trade Agreements
Branch (TAB), CBP OT TTAD



Anita Harris

Branch Chief, Textile Policy,
CBP OT TTAD



Jacqueline Sprungle

Branch Chief, Enforcement,
CBP OT TTAD



Tamica Solomon

Acting Director, USMCA Center, CBP OT

Adam Sulewski

USMCA Center Lead, CBP OT



Topics Covered

- The USMCA Center
- USMCA Resources
- Introduction to USMCA
- Entry Procedures
- Rules of Origin
- Certification Requirements
- Verifications and Determinations
- Textiles and Apparel Good
- Automotive Goods

The USMCA Center

Presented by:

Adam Sulewski, USMCA Center Lead





The USMCA Center will coordinate CBP's implementation and enforcement of the USMCA to ensure a smooth transition with consistent and comprehensive guidance to our internal and external stakeholders.

- Housed within CBP Office of Trade (OT) and includes SMEs from across CBP's HQ offices and Centers of Excellence and Expertise
- Launched in **March 2020** and will operate for three to five years
- Coordinates, tracks, and promotes **implementation efforts**
- Supports the policy-focused USMCA efforts of CBP OT, Textiles and Trade Agreements Division (TTAD)

Core Responsibilities

Coordination

Ensure smooth implementation of USMCA by leading international, inter-agency, and inter-office coordination, such as managing the CBP Implementation Working Group

Communication

Lead USMCA-related communication efforts for all stakeholders across various platforms, including informational briefings and factsheets, in coordination with other CBP offices

Regulations / Policy

Support and monitor the development of all USMCA-related legal and regulatory documents, including uniform, interim, and domestic regulations, and MOUs

USMCA Resources

Presented by:

Maryalice Nowak, USMCA Center





Overview

The USMCA Center seeks to provide informational resources, briefings, and outreach to the Trade community on USMCA implementation

All resources cleared for public consumption are available on the **USMCA Webpage on CBP.gov**

- To access, go to: <https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA> (or search “USMCA” at CBP.gov)



Informational Briefings

USMCA overviews, including new and novel provisions, delivered via trade associations and industry groups



Written & Multimedia Materials

Compliance guidance, fact sheets, side-by-side comparisons of NAFTA and USMCA, Points of Contact, FAQ's, and other resources



Additional U.S. Government (USG) Resources

Links to USMCA text, Implementation Act, ITC Report, U.S. Government Points of Contact, and other resources



USMCA Foundational Documents

U.S. – Mexico – Canada Agreement Text

USMCA Implementation Act (Public Law No: 116-113)

USMCA Regulations

- Uniform Regulations, mutually agreed upon with Mexico and Canada
- Domestic Regulations (New 19 CFR Part 182) (*Pending*)
 - Interim for 1st Year After EIF

HTSUS General Note 11 (*Pending*)

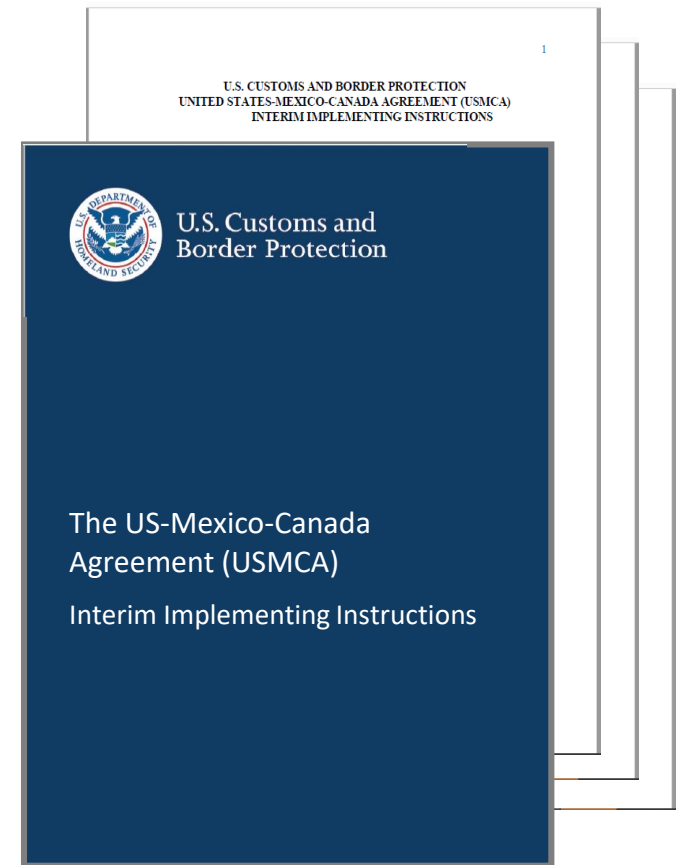


Links to all these resources are available on the USMCA webpage on CBP.gov



Interim and Final Implementing Instructions

- CBP OT initially released ***USMCA Interim Implementing Instructions*** on **April 20, 2020** to support trade implementation preparations
 - Contains contributions from the U.S. Dept. of Labor, Wage and Hour Division, regarding Labor Value Content
 - **Updated on June 16, 2020** to reflect the negotiated Uniform Regulations and will be updated to reflect contents of the pending GN 11
 - Final Implementing Instructions will be available no later than **July 1, 2020**





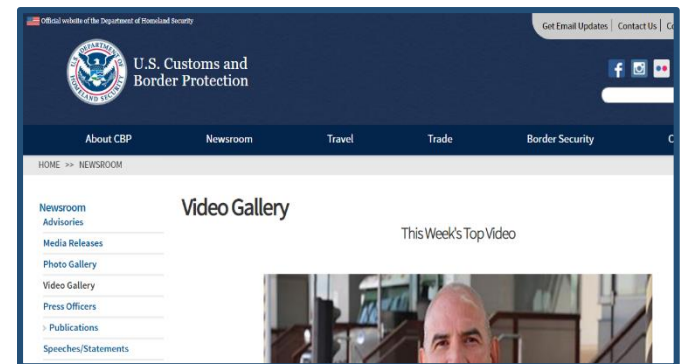
Press Releases / Media Engagement

- Press releases and press engagements on USMCA Implementation arranged by CBP Office of Public Affairs (OPA)



Informational Videos

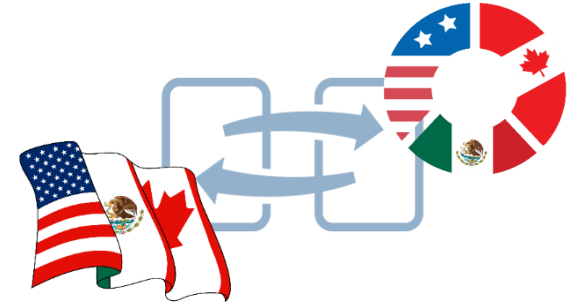
- The USMCA Center is creating up to six videos to provide compliance guidance and resource navigation
- Videos will be posted to CBP.gov and distributed widely to our trade stakeholders





Factsheets

- CBP OT is developing factsheets highlighting key provision updates and providing side-by-side comparison of the USMCA and NAFTA



Frequently Asked Questions (FAQs)

- The USMCA Center maintains a FAQ page with questions received from the Trade
- Recommended as the first and fastest resources to resolves inquiries
- Information is continuously updated





Binding Advance Rulings

- Binding advance rulings and other legal decisions issued by CBP in connection with the importation of merchandise into the United States, including under special programs like trade agreements and special trade legislation (www.cbp.gov/trade/rulings).
- Advance rulings provide the trade community with a transparent and efficient means of understanding how CBP will treat a prospective import or carrier transaction



Cargo System Messaging Service

- CSMS is one of CBP's methods for communicating to our trade partners relating to news and updates on the Automated Commercial Environment (ACE)





CBP Trade Snapshot Articles

- Monthly Trade News Snapshot is an overview of the latest updates on trade enforcement and facilitation milestones – it highlights CBP's important trade programs, initiatives, and operations for our trade partners and the public

CBP Trade News Snapshot

The new monthly *Trade News Snapshot* is an overview of the latest updates on CBP's trade facilitation and enforcement efforts around the globe. The *Snapshot* highlights CBP's important trade programs, initiatives, and operations for our trade partners and the public. CBP works with partner government agencies and the trade community to facilitate legitimate trade that supports economic growth and shield the American public and businesses from unsafe products, intellectual property theft, and unfair trade practices.

Trade News Snapshot has replaced the quarterly *CBP Trade Enforcement Bulletin*.

TRADE NEWS SNAPSHOT

Issue

Volume 2,
Issue 3

Featured Stories

EAC Message; CBP Launches Center for USMCA Implementation; COVID-19 Webpage and Resources; Two WRO Revocations; OT Remains Dedicated During COVID-19

CBP Information Center

- AskCBP Search Engine – <https://help.CBP.gov/>
- CBP Call Center – (877) 227-5511

Social Media



- Facebook
- Instagram (CBPGov)
- Twitter (@CBPTradeGov)
- YouTube

Welcome to the
INFORMATION CENTER



How can we help you today?

Search...



Additional U.S. Government Resources

- **Harmonized Tariff Schedule of the United States** (hts.usitc.gov)
- **U.S. Trade Representative** (www.USTR.gov)
- **Federal Register Notices** (www.federalregister.gov)
 - USTR published a Federal Register Notice on alternative staging regimes for automotive goods on April 21, 2020
 - The U.S. Department of Labor will be issuing a Federal Register Notice for the new and novel Labor Value Content requirement for automotive goods by June 30, 2020
- **U.S. Department of Commerce**
 - For exporter information, refer to <https://www.trade.gov/export-solutions>
- **USMCA@cbp.dhs.gov**

Introduction to USMCA

Presented by:

Brandon Morris, USMCA Center





The **North American Free Trade Agreement (NAFTA)** is an international agreement signed by the governments of Canada, Mexico, and the United States to **eliminate all tariff and non-tariff trade and investment barriers** between the countries

NAFTA entered into force on **January 1, 1994**

NAFTA featured chapters that introduced novel considerations for North American trade. The highlight provisions indicate those that are **within customs scope***:

- **National Treatment & Market Access**
- **Rules of Origin (RoO)**
- **Origin & Procedures**
- **Customs Facilitation**
- **Textiles**
- Agriculture and Sanitary and Phytosanitary Measures
- Government Procurement
- Investment
- Trade in Services
- Financial Services
- Intellectual Property Rights (IPR)
- Dispute Settlement Procedures

**Only provisions within customs scope (highlighted) will be addressed in this webinar*



The **United States-Mexico-Canada Agreement (USMCA)** is a trade agreement between the named partner countries that replaces the NAFTA upon entry-into-force (EIF)

- USMCA is referred to differently in Canada and Mexico
 - Canada Title - “Canada-United States-Mexico Agreement (CUSMA)”
 - Mexico Title - “Tratado entre México, Estados Unidos y Canadá (T-MEC)”
- Modernizes **the 25-year old NAFTA trilateral trade pact for the 21st century**:
 - ✓ Reflects **developments in technology and trade practices**; and
 - ✓ Adding **new criteria** to certain commodities, including automotive goods
- The USMCA will **not change** the **zeroed-out tariffs** on most manufacturing and agricultural goods
- USMCA will enter into force on **July 1, 2020**



While many provisions modernize those existing within NAFTA, the new USMCA Agreement does feature new and novel provisions related to **automotive goods**

- **Increased Regional Value Content (RVC) (62.5% → 75%)**
- **Labor Value Content (LVC) Requirement** – importers must certify that a certain percentage of the automobile's content (by value) is sourced from manufacturing facilities in the United States, Mexico, and Canada that **pay at least \$16 USD**
- **New Steel and Aluminum Requirements** – importers must certify that at least 70% of the vehicle producer's overall annual purchases of steel *and* aluminum by value are sourced from North America



CBP is working closely with our U.S. Government Partners, Canada and Mexico, and the trade community to ensure a comprehensive and smooth implementation from NAFTA to USMCA.

General Information and Dates



Provision	USMCA
GENERAL INFORMATION	
Agreement Name	United States – Mexico – Canada Agreement
Implementation Date	July 1, 2020
Expiration	Includes sunset provision – renewal consideration required every six (6) years , with a 16-year sunset clause
Merchandise Processing Fee (MPF)	Originating goods and tariff preference level (TPL) goods are exempt if the claim for preferential tariff treatment is made at the time of entry
Post-Importation Preference Claim	USMCA allows post-importation preference claim to request a refund of excess duties within one year of importation in accordance with 19 USC 1520(d). However, MPF paid on entries are not refunded
CITATIONS	
HTS General Note (GN)	While not yet published, the applicable General Note will be General Note 11 (GN 11)
CFR	The USC citation is to be determined, but USMCA will be reflected in 19 CFR182
Special Program Indicator	Tariff items eligible for preferential tariff treatment under USMCA will leverage a new Special Program Indicator (SPI) of “S” that will be reflected in the “Special” column of the Harmonized Tariff Schedule of the United States (HTSUS)

We will be sure to update the trade industry on any additional information, once available

Entry Procedures

Presented by:

Margaret Gray, Chief, TAB
CBP OT TTAD



For more detailed information, please refer to the **“Entry Procedures”** supplemental presentation



New to USMCA: Filers will use the **Special Program Indicator (SPI) “S”** to claim preferential tariff treatment, which will be reflected in the “Special” column of the HTSUS (*A SPI “S+” for agricultural goods will also be available*)

NAFTA vs. USMCA: For most entry types, CBP will refer to the **date of entry or withdrawal for consumption** to determine whether to apply NAFTA or USMCA –



Apply NAFTA

If entry date is prior to
July 1, 2020



Apply USMCA

If entry date is on or after
July 1, 2020

The following entry types do have **special handling requirements in USMCA**, which will be explored in the supplementary “Entry Procedures” presentation:



Reconciliation
(Entry Type 09)



Drawback
(Entry Type 47)

Note: Entry Type 08, NAFTA Duty Deferral will continue to exist as **Entry Type 08, USMCA Duty Deferral**

Other Entry Considerations

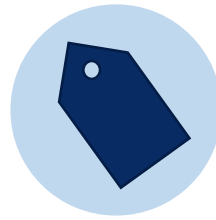


Additional USMCA considerations related to entry procedures include:

MPF Exemptions



Country of Origin
Marking



Post-Importation
Claims



These additional considerations related to entry procedures are explored in more detail in the **supplemental “Entry Procedures” presentation**

Rules of Origin

Presented by:

Margaret Gray, Chief, TAB
CBP OT TTAD



For more detailed information, please refer to the **“Rules of Origin”** supplemental presentation

Originating Requirements



An originating good is one that meets the rules of origin (RoO) guidelines set forth in **General Note 11 (GN 11)** and **all other requirements of the agreement**

The **HTSUS will be amended** to include GN 11, which includes both general and product-specific RoO, definitions, and related provisions for determining origination

Section 202 of the Agreement also **specifies the RoO** guidelines

NAFTA featured **six (6) criteria** while USMCA has **four (4)** – in general, a good is originating when one of the following criteria applies:

A

Wholly obtained or produced entirely in territory of 1+ Parties, as defined in Article 4.3

C

Produced entirely in the territory of 1+ Parties, exclusively from originating materials

B

Produced entirely in the territory of 1+ Parties using non-originating materials, provided good satisfies **product-specific RoO**

D

Produced entirely; classified with its materials or satisfies “unassembled goods”; and **meets RVC thresholds**
Exception: Chapter 61 to 63

and the good satisfies **all other applicable origin requirements**

Regional Value Content (RVC) Calculations



How is Regional Value Content (RVC) Determined?

There are two methods by which RVC can be calculated:

Transaction Value Method

Threshold:

Not Less Than 60%

Net Cost Method

Threshold:

Not Less Than 50%

Both methods and the standard thresholds for RVC are **unchanged from NAFTA**

Transaction value is the more common method – net cost is used when:

- No transaction value
- “Intermediate materials”
- “Accumulated” RVC

Product-specific RVC thresholds can be found in **Chapter 4, Annex 4-B** of the Agreement

Other Rules of Origin Considerations



Additional USMCA provisions related to rules of origin include:

Increase in *De Minimis* Thresholds
(Non-Textiles)

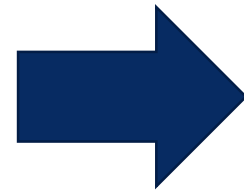


Treatment
of Sets

Pumpkin Carving Kit



Transit and
Transshipment
(Imported Directly)



These additional provisions related to entry procedures are explored in more detail in the **supplemental “Rules of Origin” presentation**

Certification Requirements

Presented by:

Margaret Gray, Chief, TAB
CBP OT TTAD



For more detailed information, please refer to the “**Certification Procedures and Requirements**” supplemental presentation



Similar to NAFTA, a USMCA claim must be based on a **certification of origin** for the purposes of certifying that a good **qualifies as an originating good**

This certification of origin can be completed by the **importer, exporter, or producer**, but the importer is responsible for **exercising reasonable care and accuracy** in submitting the certification of origin

HOWEVER, USMCA requirements differ in that USMCA **does not require a formal Certificate of Origin (CO)**, or CBP Form 434, but **nine (9) mandatory data elements** (as referenced in Annex 5-A)



In fact, NAFTA COs **will not be accepted** as a valid USMCA certification of origin – an importer can translate the applicable NAFTA CO data elements and submit them in a different format

A suggested USMCA certification of origin template will be made available on CBP.gov [here](#).

Recordkeeping Requirements



In general, USMCA recordkeeping requirements **are the same as in NAFTA**

An importer must maintain records and documentation related to the following areas and render them available upon request for a period **no less than five (5) years from date of entry:**

Importation

(i.e. Certificate of Origin, Entry Docs)

Origin of Good

(i.e. Certification of Origin)

Compliance

(Transit and Transshipment)

Below are the **key changes from NAFTA:**



Recordkeeping documents can be maintained in **any format, including electronic**, provided that they can be readily available upon request



Requirements apply even if the importing Party **does not require a certification of origin** or if the requirement is **waived**



Vehicles producers must keep records related to **labor value content and steel and aluminum requirements for five (5) years**

Verifications and Determinations

Presented by:

Jackie Sprungle, Chief, Enforcement
CBP OT TTAD



For more detailed information, please refer to the “**Verifications and Determinations**” supplemental presentation

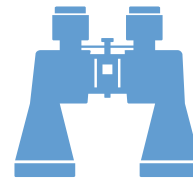
Verification – Overview



CBP may conduct a verification to determine if a good qualifies as originating by **one or more of the following activities:**



Written Request
or Questionnaire
(i.e. CBP Form 28)



Verification Visit
*To Exporter or
Producer Premises*



Verification Visit
Textile Procedures
Article 6.6



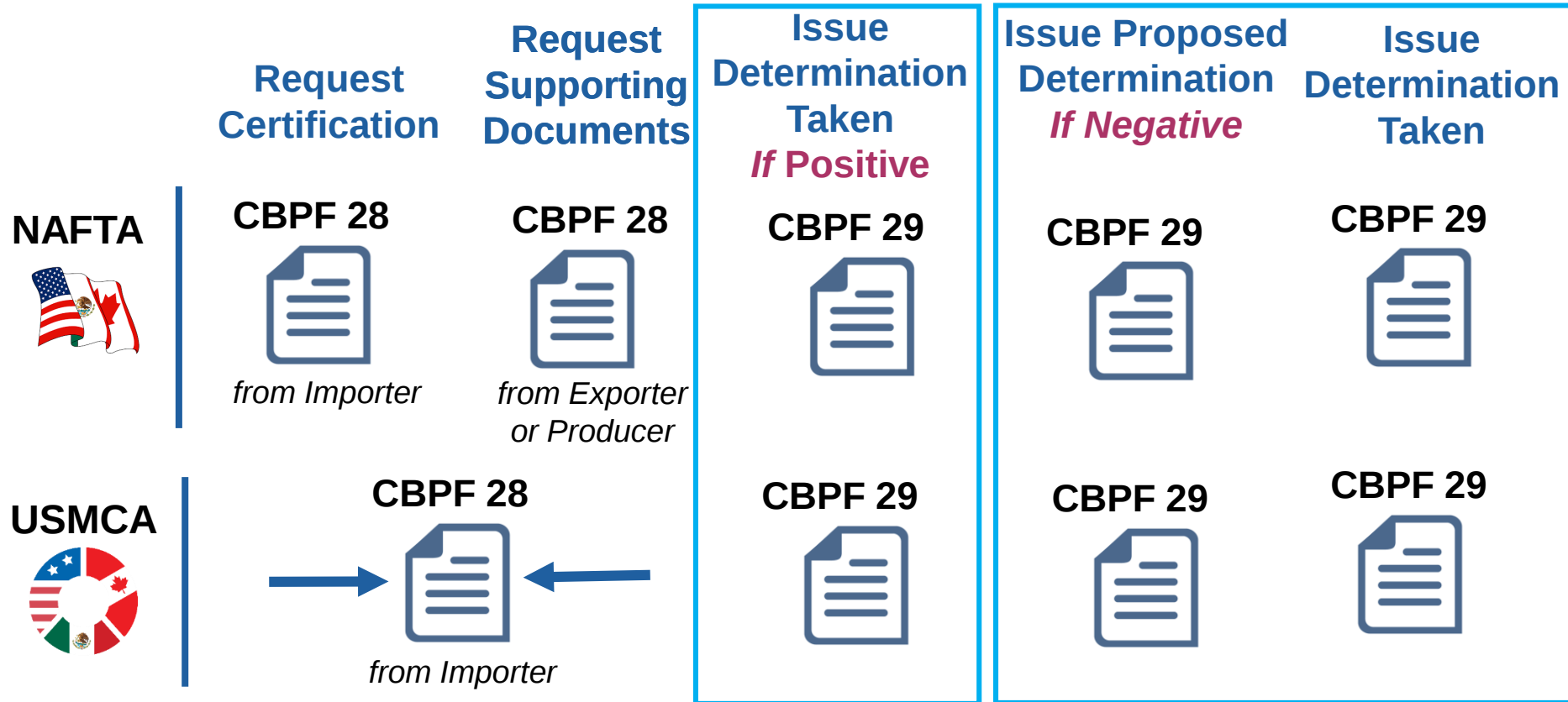
Any Other
Procedure
Decided by Parties

For verifications, importers **must be prepared to substantiate their claims**

Verification – NAFTA vs. USMCA Process



Specific to written verification requests, USMCA has a **similar process as NAFTA**



For USMCA, in the case of a negative determination, CBP will issue a CBP Form 29, Proposed, to the importer. If the importer is not the certifier, CBP will also send a proposed notice to the exporter or producer, as appropriate, whichever entity was the certifier.

Determinations and Notifications



Scenario	Form	Result
If importer provides sufficient information	CBP Form 29 “Notice of Action – Taken”	▪ Indicates positive determination
If importer DOES NOT substantiate claim	CBP Form 29 “Notice of Action – Proposed”	▪ Recipients have 30 days to submit additional information to substantiate claim
If no additional information provided OR additional information DOES NOT substantiate claim	CBP Form 29 “Action Taken”	▪ Indicates negative determination ▪ Deny preference claim
If additional information substantiates claim	CBP Form 29 “Action Taken”	▪ Indicates positive determination
<i>For each scenario, CBP must also –</i>		
▪ Notify importer and certifier, if not the importer, of the determination		▪ Include HTS number, a description of the good, and applicable RoO

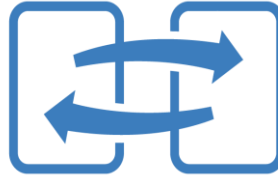


Additional USMCA provisions related to verification and determinations include:

Blanket
Certifications



Pattern of
Conduct



Protest and
Appeal



These additional provisions are explored in more detail in the
supplemental “Verification and Determination” presentation

Textiles

Presented by:

Imani Midgette, International Trade Analyst,
Textiles Policy, CBP OT TTAD



For more detailed information, please refer to the “**Textiles**” supplemental presentation

Summary of NAFTA-to-USMCA Changes



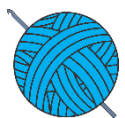
Overall, USMCA features the following changes from NAFTA:

- ✓ **Allows fabrics used for visible linings** in certain apparel to be sourced from **outside the USMCA Parties**
- ✓ **Increases the *de minimis allowance*** for non-originating inputs from 7% to **10%**
- ✓ Added a provision for **treatment of sets**
- ✓ Requires **secondary components** (sewing thread, pocketing fabric, narrow elastic bands, and coated fabric) used in the production of apparel be **sourced within the region**
- ✓ **Allows rayon fiber and rayon filament** (other than lyocell or acetate) to be of any origin when used in a good classified in Chapter 50 through 63 or heading 9619
- ✓ **Reduces some Trade Preference Levels (TPL)** for US imports from Canada and Mexico while **substantially increasing TPLs for US exports** to Canada or apparel and other finished textile goods
- ✓ Establishes a **Textiles chapter for North American trade**, including textile-specific **verification** and **customs cooperation provisions**

Textile and apparel products may qualify as originating under USMCA if they meet the requirements specified in the Agreement.

In general, USMCA textile and apparel rules of origin (RoO) follow the **yarn-forward* concept**, which requires that the formation of yarn, weaving or knitting of fabric, and cutting and sewing of a garment occurs in one or more of the Parties.

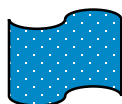
Below are the RoO concepts and processes for basic textile products:



Yarn

Fiber-Forward RoO

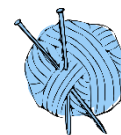
- Fiber **must originate** in U.S., Mexico, or Canada
- Yarn must be spun/extruded and finished in **1+ Parties** to qualify



Woven Fabric

Yarn-Forward RoO

- Fiber may be of **any origin**
- Yarn must be spun/extruded, finished and the fabric woven in **1+ Parties** to qualify



Knit Fabric

Fiber-Forward RoO

- Fiber **must originate** in U.S., Mexico, or Canada
- Yarn must be spun/extruded, finished and the fabric knitted in **1+ Parties** to qualify

**With exceptions*

Exceptions for Textiles / Apparel RoO



There are four exceptions to the yarn-forward rule of origin to govern textile and apparel goods – each will be described in subsequent slides:

1

Cut-and-Sew (Single Transformation) Provision



2

U.S. / Mexico Assembly Provision



3

Short Supply Provision



4

Tariff Preference Levels (TPL)



Additional USMCA provisions related to textiles and apparel goods include:

Increase in *De Minimis* Thresholds



Treatment of Sets



Additional Provisions
Secondary Components

- Visible Linings
- Narrow Elastic Fabric
- Pocket Bag Fabric
- Sewing Thread
- Coated Fabric
- Rayon Fabric and Rayon Filament

These additional provisions related to textiles are explored in more detail in the **supplemental “Textiles” presentation**

Automotive Goods

Presented by:

Adam Sulewski, USMCA Center Lead
Maryalice Nowak, USMCA Center



For more detailed information, please refer to the **“Automotive Goods”** supplemental presentation



NAFTA

- Regional Value Content (RVC) Threshold of **62.5%**
- Tracing List and “Deemed Originating”
- **NO** Steel and Aluminum Procurement
- **NO** Labor Value Content (LVC)

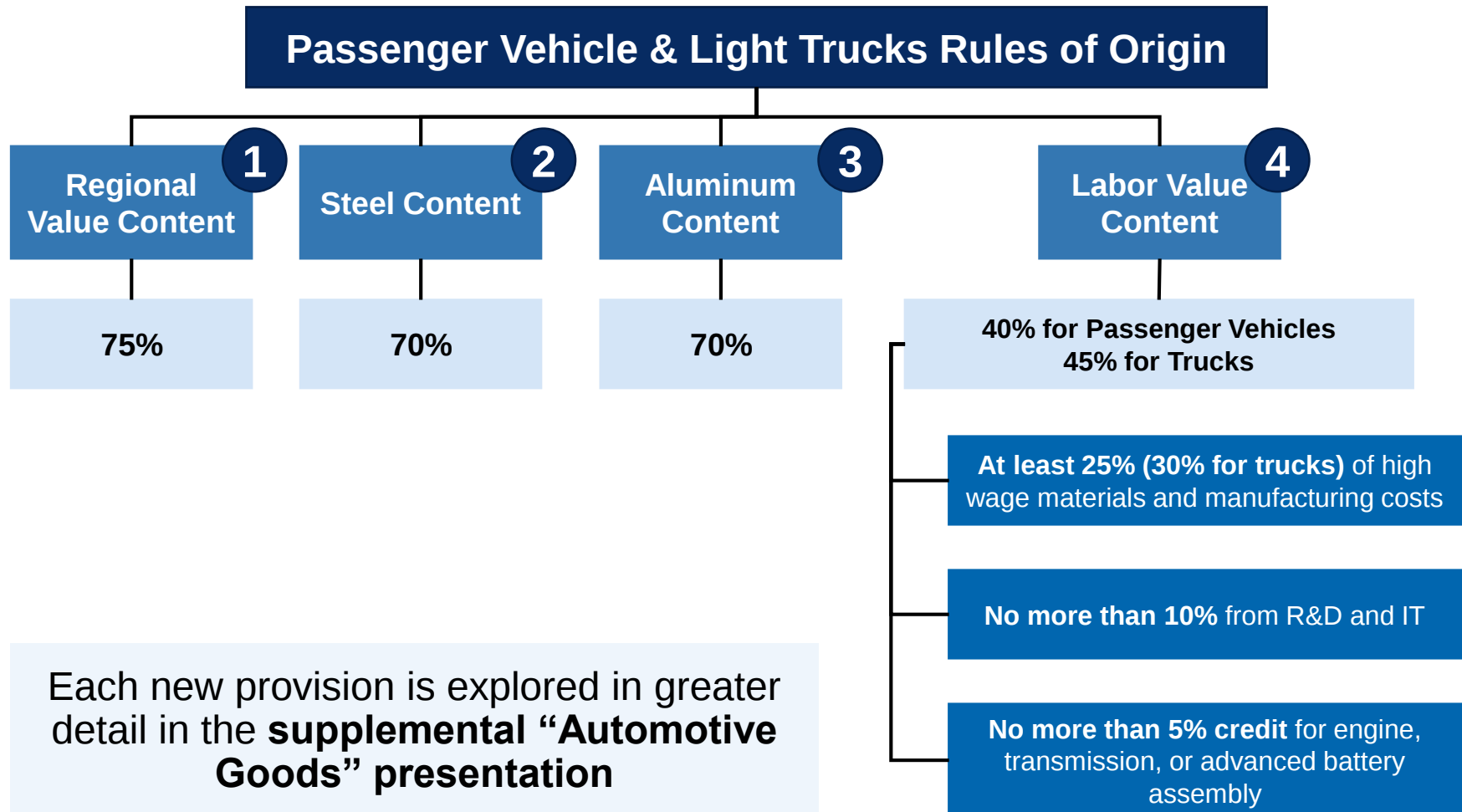


USMCA

- RVC Threshold of **75%**
- **NO** tracing list or “deemed originating”
- **NEW** Steel and Aluminum Procurement Requirement (70%)
- **NEW** Labor Value Content (LVC) Requirements – Requires Collaboration with Dept. of Labor
- Alternative Staging Option (Five Years) – Managed by USTR



USMCA introduces **four (4)** new provisions related to automotive goods:



Auto Regional Value Content (RVC)



The increased Regional Value Content (RVC) percentages will be phased in over a period of either **3 years** or **7 years**, depending on the type of vehicle

While RVC for complete vehicles must use the **net cost method**, RVC calculations for certain specified parts can use either the **net cost or transaction value method**

Please see below for specific phased requirements –

<i>Type</i>	<i>New RVC Requirement</i>	<i>Citation</i>
Passenger Vehicles & Light Trucks	75% by net cost over 3 years	Article 3 of the Automotive Appendix (Appendix to Annex 4-B)
Heavy Trucks	70% by net cost over 7 years	Article 4 of the Automotive Appendix
Other Specific Vehicles	62.5% by net cost immediately upon EIF	Article 10 of the Automotive Annex

Steel and Aluminum Requirements



Passenger Vehicles (PV)

Light Trucks (LT) or Heavy Trucks

are originating if the producer's purchase of

1

Steel is

at least 70%

originating goods

and

2

Aluminum is

at least 70%

originating goods

These purchases **do not need to contribute directly to vehicle production** and is ***not* a transactional requirement** – rather, it is a **general requirement on the vehicle producer itself**

Verifications will require close collaboration with **CBP OT Regulatory Audit and Agency Advisory Services (RAAAS)**



Automotive goods are originating only if the vehicle producer certifies that its production meets the below LVC requirements:

Passenger Vehicle (PV)

30%  **40%**
Upon EIF *By 2023*

Consisting of:

- ✓ **At least 15%** of high-wage material and manufacturing expenditures upon EIF – increases to **25% by 2023**
- ✓ **No more than 10%** of high-wage technology expenditures
- ✓ **No more than 5%** of high-wage assembly expenditures

Light Truck (LT) or Heavy Truck

45%
Upon EIF

Consisting of:

- ✓ **At least 30%** of high-wage material and manufacturing expenditures
- ✓ **No more than 10%** of high-wage technology expenditures
- ✓ **No more than 5%** of high-wage assembly expenditures



Below is an example of a passed certification or positive determination:

Personal Vehicle A

A

High wage manufacturing (sum total of annual value of parts/materials procured from facilities with a production wage rate >\$16 hrly (divided by net cost of vehicle)

25+% / 30+%

High Wage Technology

Up to 10%

High Wage Assembly

Up to 5%

Passes

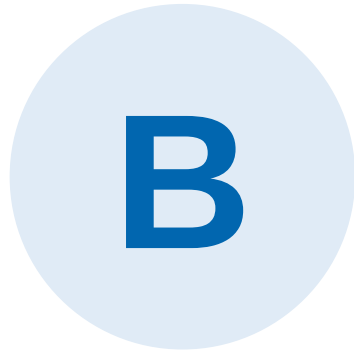
40% / 45%

CBP allows preferential treatment under USMCA and issues Form 29 (Accepting Preferential Treatment Claim)



Below is an example of a failed certification or negative determination:

Personal Vehicle B



High wage manufacturing (sum total of <u>annual value of parts/materials</u> procured from facilities with a production wage rate <\$16 hrly (divided by <u>net cost of vehicle</u>)	<25% / <30%
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High Wage Technology	Up to 10%
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High Wage Assembly	Up to 5%
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Fails
< 40% / 45%

Scenario 1 – CBP Determination

Annual **value of parts/materials** is **less** than claimed **AND/OR** the **net cost of vehicle** is **more** than claimed, bringing overall high wage manufacturing calculation < 25%/30%

Scenario 2 – DOL Determination

High wage facility found ineligible due to **insufficient wages**, bringing overall high wage manufacturing calculation to < 25%/30%

USMCA Alternative Staging Regime



The U.S. Trade Representative (USTR) is developing an **alternative staging regime for automobiles** that would permit vehicle producers to apply for a **longer period of transition** for compliance (five years vs. three from EIF)



Vehicle producers must **submit a petition to USTR** to request alternative staging by **no later than (NLT) 7/1/2020 (USMCA EIF)**

Eligibility: Importer intends to make a claim for preferential tariff treatment and the producer determines that it will be **unable or unlikely to be able** to meet auto RoO requirements

- Approved companies will be posted on a **public list** and adhere to **different rules**, such as **lower threshold for benefits**
- Producers can **still make claims under the standard staging regime** if it determines it no longer requires alternative staging regime
- Alternative staging regimes **do not replace any other RoO provisions** of general applicability for these goods to make a claim under USMCA

Relevant Resources

USMCA Automotive Appendix

USTR FRN 2020-08405 (April 21, 2020) on Alternative Staging Regime

Thank You!



CBP Publication Number 1121-0620